

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

FREDRICK BRADFORD WAITZMANN, )

Plaintiff, )

v. )

No. 4:23-cv-00789-DGK

CLAY COUNTY SHERIFF'S )

DEPARTMENT, et al., )

Defendants. )

**ORDER ON MOTION TO DISMISS**

This case arises from an altercation with law enforcement in Clay County, Missouri. Plaintiff Frederick Waitzmann alleges he was unconstitutionally removed from the Clay County Courthouse after his metal implants set off the metal detector and he gave law enforcement the middle finger while undergoing secondary screening.

Now before the Court is a motion to dismiss “Clay County Sheriff’s Department” as a named defendant. ECF No. 21. Plaintiff has not filed a response, and the time to do so has passed.

A claim may be dismissed if it fails “to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). Under Rule 17(d), whether an entity is subject to suit is determined by “the law of the state where the court is located.” Here, under Missouri law, the Clay County Sheriff’s Department is not an entity subject to suit. *See Wilson v. Taney Cnty., Missouri*, No. 18-3082-CV-S-BCW-P, 2018 WL 11308704, at \*2 (W.D. Mo. Apr. 4, 2018); *Ketchum v. City of West Memphis*, 974 F.2d 81, 82 (8th Cir. 1992).

Accordingly, the motion is GRANTED, and Clay County Sheriff’s Department is DISMISSED from this case.

**IT IS SO ORDERED.**

Date: March 27, 2024

/s/ Greg Kays  
GREG KAYS, JUDGE  
UNITED STATES DISTRICT COURT